

EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON AT TACOMA
3

4 EMILY TORJUSEN,)
5 Plaintiff,) 3:18-cv-05785-BHS
6 v.) Tacoma, Washington
7 NATIONAL RAILROAD PASSENGER)
8 CORPORATION d/b/a AMTRAK,) March 7, 2022
9 Defendant.) Pretrial
Conference
)

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11 VERBATIM REPORT OF PROCEEDINGS
12 BEFORE THE HONORABLE BENJAMIN H. SETTLE
13 UNITED STATES DISTRICT JUDGE
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1 stipulated here with respect to many medical records, and I
2 expect you can do some meeting and conferring and resolve.
3 Where they are unresolved, you can bring it to my attention
4 during trial that there is an issue of medical records.

5 Defendant's No. 1 is preclude evidence not produced in
6 discovery. Plaintiff is arguing I should reserve ruling on
7 these. I agree. The plaintiffs have a motion similar to
8 this, which was unopposed and granted. Having said that,
9 though, whether an opinion offered by an expert is beyond a
10 report is a matter that needs to be addressed when being
11 offered. Opinions that are disclosed may have assumptions or
12 support opinions that formulate the general opinion. The
13 Court just has to reserve ruling should an objection come up
14 that there is an opinion, for example, being expressed by
15 someone that was not supported in the record. Although there
16 are no expert witnesses in this case, are there? All the
17 so-called experts are just health care providers, treatment
18 providers.

19 MR. LEVY: Correct, Your Honor.

20 THE COURT: I will move on to No. 2. Preclude
21 inflammatory questions, statements and arguments attempting
22 to disparage Amtrak. I believe and agree this is too vague.
23 I will rule on any objections when made. Of course, the need
24 to avoid these things applies to both parties.

25 Three, preclude cumulative fact witnesses. I did not see

1 coming out in the opening statement. But if it becomes too
2 significant and counsel for the other side objects and says:
3 This is argument, Your Honor. I am going to say: It is.
4 Your objection is sustained.

5 Let me finish. With respect to the anchoring part, I have
6 not precluded anchoring. I don't endorse those courts that
7 think it is improper. I do not think it is improper. It is
8 something that each side can do. It is perfectly, in my
9 opinion, appropriate for counsel to make a suggestion to the
10 jury. That's what it should be. It is argument. It should
11 be a suggestion. So-called anchoring, this anchoring motion
12 is denied.

13 No. 8, preclude evidence of Amtrak's liability. I have
14 already addressed this, I think, sufficiently, with what I
15 expect the parties to get together and do with regard to
16 photographs and stipulation.

17 Preclude media reports is No. 9 regarding the derailment
18 or the return to service. As I have done in earlier cases, I
19 am going to reserve ruling on this. As a general matter,
20 there are 402 and 403 concerns. However, if some media
21 coverage has some influence on plaintiff's mental state of
22 any kind, it may pass both evidentiary rules, but I want to
23 know ahead of time if plaintiff intends to offer evidence of
24 media coverage, and I will take it up outside the presence of
25 the jury.

1 (The proceedings adjourned.)

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4 C E R T I F I C A T E

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7 I certify that the foregoing is a correct transcript from
8 the record of proceedings in the above-entitled matter.

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12 /s/ *Angela Nicolavo*

13 ANGELA NICOLAVO
14 COURT REPORTER
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